



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development
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|----------------------------------|--------------------|
| Public Hearing Date: | September 27, 2004 |
| Zoning and Planning Action Date: | November 22, 2004 |
| Board of Aldermen Action Date: | December 6, 2004 |
| 90-Day Expiration Date: | December 26, 2004 |

TO: Board of Aldermen
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official

SUBJECT: Petition # 225-01(3) of ZONING AND PLANNING COMMITTEE proposing a new section of Chapter 30 of the City of Newton Zoning Ordinances governing rear lot subdivisions that would require explicit findings of specific public benefits and standards for mitigation of impacts that must be met before a special permit for this purpose could be granted.

CC: Mayor David B. Cohen
Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

RECOMMENDATION: Approve modified rear lot ordinance.

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Boards. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider its discussion at a subsequent Working Session.

I. BACKGROUND

Petition #225-01(3) reflects continued deliberation of issues pertaining to the mitigation of potential impacts arising from rear lot subdivisions as well as whether a public benefit requirement should be established. Initially heard March 22, 2004, the item was discussed at length by the Zoning and Planning Committee in working sessions and a draft ordinance was under preparation by the Law Department. The Planning and Development Department has

provided several memoranda dated as follows: March 22, 2004, May 6, 2004, May 18, 2004, and May 28, 2004 along with various tables and other supplemental information as part of this process. At this time, the petition is being reheard, as the initial 90-day period for action has expired. The most recent memorandum dated May 28, 2004, discussing the key components of a draft rear lot ordinance, together with a proposed new Table 4 is enclosed. During the interim period, the Board of Aldermen approved a rear lot subdivision at 333 Brookline Street (*Petition #213-04*) on September 7, 2004 under the current ordinance, and will continue review of the proposed rear lot subdivision at 76 Webster Park (*Petition #286-04*) following the public hearing, which was concluded on September 21, 2004.

II. RECOMMENDATION

The Planning and Development Department believes the Zoning and Planning Committee made significant progress toward an improved rear lot subdivision ordinance during the prior deliberations. Following the upcoming re-hearing of this petition, we suggest these deliberations be brought to a conclusion in the near future with adoption of a revised ordinance applicable to residential zones, while deferring for future consideration any revisions pertaining to rear lot subdivisions in non-residential zones. Enclosed for use by the Committee is a copy of the most recent ordinance draft *dated June 21, 2004*, as provided by the Law Department.

The Planning and Development Department recommends adoption of a revised rear lot subdivision ordinance for residence zones along the lines expressed in our memorandum dated May 28, 2004, enclosed.



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DATE: May 28, 2004

TO: Alderman Brian Yates, Chairman, and
Members of the Zoning and Planning Committee
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official

SUBJECT: **Draft New Rear Lot Ordinance, Petition # 225-01(3)**

CC: Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

Based on Committee discussions and your May 24, 2004 vote, enclosed you will find a new Table 4 setting out the dimensional controls applicable to future rear lot developments. A draft new rear lot ordinance is being provided separately by the Law Department.

Gatekeeper standards.

The intent of the draft ordinance is to establish "gatekeeper" parameters, which must be satisfied for any proposed rear lot development so as to mitigate undesirable impacts on adjacent residences and the neighborhood. These include the following standards:

- Increased minimum lot size to accommodate increased setbacks and better building placement on site.
- Increased side and rear yard setbacks (by 50%) to improve buffering
- Alternate building separation standards to provide some flexibility in the placement of the new residence, yet maintaining sufficient building separation across lot lines between a proposed new building on a rear lot and existing residences on adjacent lots.
- Reduced FAR to control building size and to moderate building bulk in rear lot settings.
- Corresponding reduction in building coverage to ensure that the proposed larger minimum lot sizes will not unintentionally lead to larger buildings.

- Minimum vehicular access frontage coupled with alternate use of an easement or right-of-way similar in size.
- Limit the amount of area within the vehicular access portion (stem or “flagpole” portion) that may be included in calculating the overall minimum lot area to 20% of the required lot area.
- Maintain existing standards for front setbacks, open space, stories, and building height as currently stated in Section 30-15, Table 1. This includes the current 25 ft. minimum provided in Section 30-15(e) for front setbacks as a “fall-back” position subject to special permit.

An applicant may seek a special permit for a rear lot provided the above parameters are satisfied for the new rear lot. The remainder of the original lot must also meet these parameters, unless certain pre-existing conditions (enumerated below) justify a waiver by the Board of Aldermen.

Affordable housing exception.

A rear lot petition for a two-family residence, at least one of which will meet the requirements for affordable housing as stated in Section 30-24(f), is eligible to utilize typical dimensional controls as stated in Section 30-15, Table 1, and in Section 30-15(e).

Submittal requirements

Petitioners must submit architectural plans, a landscape plan, site plan, and an area plan showing distances from proposed structure(s) to residences on all abutting lots, along with information on the heights and stories of these buildings. All plans must be stamped and signed by registered professionals.

Site plan review

The Board of Aldermen will consider the following as part of the site plan review and special permit process for rear lots:

- Whether the proposed building exceeds the average height of abutting residences.
- Scale of building in relation to adjacent residences and character of neighborhood.
- Topographic differentials, if any, between the new rear lot structure and adjacent residences.
- Proposed landscape screening.
- Adequate vehicular (including fire equipment) access, with emphasis on facilitating common driveways.
- Whether any historic or conservation public benefit is provided or promoted by the proposed development.
- Whether the location of accessory structures (garages, sheds, etc.) on the new rear lot or on adjacent lots will negatively impact either the proposed rear lot development or abutters.

Pre-existing condition waivers

The rear lot development standards are intended to apply to each new lot created as a result of subdividing an existing larger lot into new rear lots and to the remainder lot. In some cases, an existing structure, a historic structure in particular, as sited on the original lot may be located so as not to meet the new rear lot standards, or may not meet the dimensional controls of Section 30-15, Table 1, but is a valid nonconforming structure. The Board of Aldermen may, as part of the special permit granting process waive front and side setback requirements as follows:

- For a pre-existing condition where the building does not meet the new side yard requirement per proposed Table 4, but meets Section 30-15, Table 1, the setback may be reduced to such setback as allowed per the dimensional requirements of Table 1.
- For a pre-existing condition where the building does not meet the new side yard requirement per proposed Table 4, nor the requirements per Section 30-15, Table 1, and is determined to be a valid nonconforming structure, the setback may be reduced to the actual existing side yard setback distance.
- For a pre-existing condition where the building does not meet the front setback required per Section 30-15, Table 1, and is determined to be a valid nonconforming structure, the setback may be reduced to the actual existing front setback distance.

These waivers provide a mechanism to address situations involving pre-existing conditions and streetscapes, avoid unnecessary disruption, and facilitate the preservation of historic structures on the front lot as part of an overall rear lot development plan.

Please call Juris Alksnitis at 617-796-1127 or e-mail to jalksnitis@ci.newton.ma.us with any further comments or suggestions.

ATTACHMENT:

Draft Table 4, Dimensional Controls for Rear Lot Development in Residence Districts

TABLE 4 - DIMENSIONAL CONTROLS FOR REAR LOT DEVELOPMENT IN RESIDENCE ZONES

| ZONING DISTRICT | MIN. REQ. LOT AREA | VEHIC. ACCESS(1) | FRONTAGE(2) | SETBACKS | | | ALT. RES. BUILDING SEP.(4) | | | | TOTAL | | | MAX. BLD. LOT CO-VERAGE | MIN. REQ. OPEN SPACE |
|-----------------|--------------------|------------------|-------------|----------|------|------|----------------------------|--------|------|--------|----------|-----------|----------|-------------------------|----------------------|
| | | | | | | | SIDE | MIN TO | REAR | MIN TO | FL. AREA | BLDG | MAX # | | |
| | | | | FRONT(3) | SIDE | REAR | SEP. | LINE | SEP. | LINE | RATIO(5) | HEIGHT(6) | STOR.(7) | | |
| SR-1 | 30,000 | 20 | 140 | 40 | 30 | 38 | 60 | 20 | 76 | 25 | 0.12 | 30 | 2.5 | 13% | 70% |
| SR-2 | 18,000 | 20 | 100 | 30 | 23 | 23 | 46 | 15 | 46 | 15 | 0.20 | 30 | 2.5 | 17% | 65% |
| SR-3 | 12,000 | 20 | 80 | 30 | 15 | 23 | 30 | 10 | 46 | 15 | 0.24 | 30 | 2.5 | 25% | 50% |
| MR-1 | 12,000 | 20 | 80 | 30 | 15 | 23 | 30 | 10 | 46 | 15 | 0.28 | 30 | 2.5 | 25% | 50% |
| MR-2 | 12,000 | 20 | 80 | 25 | 15 | 23 | 30 | 10 | 46 | 15 | 0.28 | 30 | 2.5 | 25% | 50% |
| MR-3 | 12,000 | 20 | 80 | 25 | 12 | 23 | 24 | 8 | 46 | 15 | 0.28 | 30 | 2.5 | 25% | 50% |
| MR-4 | 12,000 | 20 | 80 | 25 | 15 | 23 | 30 | 10 | 46 | 15 | 0.28 | 30 | 2.5 | 25% | 50% |

NOTES:

1 May be provided in fee as part of the lot with street frontage 20 ft. wide or as a legal easement or right-of-way 20 ft. wide.

If provided in fee, the area utilized for vehicular access (lot stem portion) may not be counted more than 20% toward minimum lot area requirement.

2 Required for street lot. Also required for rear lot, but may be measured along the rear lot line of the lot in front.

3 Subject to special permit, a building on a rear lot may be located no closer than 25 ft. from the rear line of the lot in front.

4 Alternate side building separation standard (measured across lot line, building to building) may be utilized in place of required sideyard. Note min. distance to lot
Alternate rear building separation standard (measured across lot line, building to building) may be utilized in place of required rear yard. Note min. distance to lot

5 FAR applies as described in Table 1, Footnote 7

6 Building height applies as described in Table 1, Footnotes 2 and 8.

7 Allow three stories by special permit if the proposed structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood

Planning and Development Department

05/27/04